IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWENTY FIRST DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE R.SUBHASH REDDY

WRIT PETITION NO : 8300 of 2000

Between:

M/s. Abhinay Ceramics (Pvt) Ltd,

Kondamadugu Village Bibinagar Mandal,
Nalgonda District, Rep. by its Managing Director,

D. Surendra Reddy

..... PETITIONER

AND

1 The Superintending Engineer Operation circle,
A.P. TRANSCO, Nalgonda District.
Nalgonda.
2 The Divisional Engineer, Operation Circle, AP TRANSCO,
Bhongir, Nalgonda District.
3 The Assistant Divisional Engineer, Operation Circle, A.P. Transco,
Bhongir, Nalgonda District.
4 The Chief Engineer/ Commercial, APTRANSCO,
Vidyut Soudha, Hyderabad.82.
5 The Chairman, A.P. Transco
Vidyuth Soudha,
Hyderabad-82.
6 The Govt of A.P. Rep. by its Principal Secretary
Energy, Energy Department, Secretariat Buildings,
Hyderabad.

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ of Mandamus, or any other appropriate Writ order or direction, declaring

the action of the respondents especially respondents Nos. 4,5 & 6 in not permitting the petitioner industry to pay the arrears of C.M.D. Charges pertaining H.T. Service S.C.No.NLG 312 of the petitioner Industry in 20 equal installments and the consequential action of the 3rd respondent in disconnecting the electricity supply to the petitioner industry and terminating the service agreement as illegal, arbitrary and discriminatory and consequentially direct the respondents 4 to 6 to permit the petitioner to pay said arrears in 20 equal installments and also direct the respondents 1 to 3 to restore electricity supply to the petitioner industry on payment of the first installment by reviving the agreement and pass such other order or orders as deem fit and proper.

Counsel for the Petitioner:Mr.M.Chandrasekhar Reddy, Advocate

Counsel for the Respondents1 to 5:K.N.Jwala, SC for AP.TRANSCO

Counsel for Respondent No.6: None appeared.

The Court made the following ORDER:

THE HONOURABLE SRI JUSTICE R. SUBHASH REDDY

WRIT PETITION NO. 8300 OF 2000

ORDER:

This Writ Petition is filed, questioning the action of the respondents in not permitting the petitioner-Industry to pay the arrears of electricity power consumption charges pertaining to H.T. Service SC.No. NLG 312 of the petitioner-Industry, in 20 equal installments.

Mainly this Writ Petition is filed on the ground, that one other industry, by name, M/s.Mittal Ferro Re-Rolling(P)Limited, was permitted to pay the arrears in installments, and, the petitioner was discriminated by not permitting to pay the arrears in installments.

At the stage of admission, this Court has granted interim orders directing the respondents to restore the power supply, subject to condition of depositing 1/4th of the arrears.

In the counter affidavit filed on behalf of the respondents, it is stated that M/s. Mittal Ferro Re-Rolling(P) Limited met with fire accident, and suffered huge loss worth more than Rs.80 lakhs, and, keeping in view the said aspect, pursuant to the order of this Court, the said company was allowed to pay the arrears in installments.

It is not in dispute, that the arrears in question are, on account of electricity consumption charges. The petitioner-Industry having consumed the electricity power, cannot claim as right to pay the arrears in installments. Grant of installments to the consumer is not a matter of right and the same will be considered depending on the facts and circumstances of each case. The respondents have explained the circumstances, in which, other industry, by name, M/s. Mittal Ferro Re-Rolling(P) Limited, was permitted to pay the arrears in installments. Further, in absence of any right as such, to seek installments, the petitioner cannot seek such relief in this Writ Petition, which is filed under Article 226 of the Constitution of India. During the pendency of the Writ Petition, this Court has granted interim orders, subject to condition of depositing 1/4th of the arrears due from the petitioner. However, having regard to the fact that the said order passed by this Court continued all along, I dispose of the Writ Petition permitting the petitioner to pay the balance amount, if not already paid, within a period of three months from today. If any arrears due are not paid within the time limit as stipulated above, it is open for the respondents to take steps as per the terms and conditions of supply.

Subject to the above directions, the Writ Petition is disposed of. No costs.

JUSTICE R. SUBHASH REDDY

DATED: 21st June, 2004.

Msnr.

Asst. Registrar

//True copy//

Section Officer

1. The Superintending Engineer Operation circle,
   A.P. TRANSCO, Nalgonda District.
   Nalgonda.
2 The Divisional Engineer, Operation Circle, AP TRANSCO,
   Bhongir, Nalgonda District.
3 The Assistant Divisional Engineer, Operation Circle, A.P. Transco,
   Bhongir, Nalgonda District.
4 The Chief Engineer/ Commercial, APTRANSCO,
   Vidyut Soudha, Hyderabad.82.
5 The Chairman, A.P. Transco
   Vidyuth Soudha,
   Hyderabad-82.
6 The Principal Secretary
   Energy, Energy Department, Govt. of AP, Secretariat Buildings,
   Hyderabad.

7. Two CC s to Govt. Pleader for Industries, High Court of

AP,Hyderabad(OUT)

8. Two CD copies.